

California Waste Haulers Council (Luis Sanchez)

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Comments on 15-Day Modifications to the Advanced Clean Fleets Regulation
Docket: ACF 15-Day Change Package (Released April 2, 2026)

Chair Sanchez and Members of the Board:

On behalf of the California Waste Haulers Council (CWHC), representing waste and recycling service providers operating under franchise and contract agreements with local jurisdictions across California, we respectfully submit the following comments on the 15-day modifications to the Advanced Clean Fleets (ACF) regulation released on April 2, 2026.

CWHC members provide essential public health, environmental, and safety services in communities throughout the state. These services are delivered through long-term contractual arrangements with cities and counties and rely on highly specialized medium- and heavy-duty vehicle fleets—including front-loaders, automated side-loaders, rear-loaders, roll-off trucks, and transfer vehicles—that are purpose-built for residential and commercial solid waste collection, recycling, and organic waste diversion.

While we appreciate CARB's continued engagement on ACF implementation and the efforts reflected in the September 2025 amendments to provide additional compliance flexibility for public agencies pursuant to Assembly Bill 1594, the 15-day modifications raise significant procedural, legal, and implementation concerns, particularly as they relate to waste and recycling fleets operating under municipal contracts. Several of these concerns implicate the rulemaking standards set forth in the California Administrative Procedure Act (APA), Government Code sections 11340 et seq.

Our specific concerns are set forth below.

The 15-Day Modifications Constitute a Substantive Expansion of Regulatory Scope That Exceeds the Permissible Bounds of a 15-Day Change

Under Government Code section 11346.8, subdivision (c), modifications introduced at the 15-day stage of a rulemaking proceeding must be "sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action." This standard exists to protect the public's due process rights and to ensure that the formal notice-and-comment process under the APA is not circumvented by introducing substantive new policy at the final stage of rulemaking.

The 15-day modifications at issue here go well beyond this statutory threshold. Most notably, the revisions:

- Expand applicability to private fleets operating under contract with public agencies, including franchised waste and recycling haulers, which were not identified as regulated entities in the original proposed regulatory text or the Initial Statement of Reasons;
- Revise the definition of "waste fleet" to explicitly include fleets contracted with a municipality, thereby capturing a large segment of the waste and recycling industry that was not previously subject to ACF's State and Local Government Fleet requirements;
- Introduce a novel regulatory framework that ties ACF compliance obligations to contractual relationships and procurement structures, rather than limiting applicability to direct fleet

ownership—a concept that was neither proposed nor analyzed in the original rulemaking record. These changes represent a fundamental structural shift in the regulation, extending compliance obligations for a segment of private-sector service providers that were not subject to the proposed rule. This is not a technical clarification or minor adjustment—it is a substantive policy expansion that materially alters the scope and impact of the regulation. It introduces new regulated entities, creates new compliance pathways, and fundamentally restructures the relationship between ACF and municipal service contracting.

CWHC respectfully submits that these modifications are not "sufficiently related" to the original proposed text within the meaning of Government Code section 11346.8(c). No reasonable member of the public, reviewing the original notice of proposed action, could have anticipated that the rulemaking would culminate in the extension of ACF obligations to private contracted haulers through a contracting-based compliance mechanism. The Office of Administrative Law (OAL) has consistently held that modifications which introduce new regulatory concepts, expand applicability to previously unregulated entities, or impose new compliance obligations on parties not contemplated in the original proposal exceed the scope of permissible 15-day changes.

Moreover, CARB's rulemaking record does not appear to contain the economic impact analysis, alternatives analysis, or feasibility assessments required under Government Code sections 11346.2 and 11346.3 for regulatory provisions of this magnitude. The Standardized Regulatory Impact Assessment (SRIA) prepared for the original ACF rulemaking did not model the costs of extending compliance obligations to contracted waste and recycling fleets, nor did it evaluate the downstream impacts on municipal franchise agreements, rate structures, or local government procurement.

The Modifications Will Cause Significant Disruption to Existing Municipal Franchise and Service Agreements

Waste and recycling services in California are overwhelmingly delivered through long-term franchise and service agreements between local jurisdictions and private haulers. These agreements are a product of extensive competitive procurement processes conducted by cities and counties under their independent constitutional and statutory authority. They typically:

- Span 10 to 15 years or longer, with some extending up to 20 years;
- Reflect hundreds of millions of dollars in capital investment in fleet procurement, maintenance facilities, transfer stations, and supporting infrastructure;
- Establish fixed service levels, performance standards, rate structures, and fleet specifications that are negotiated and approved through public processes;
- Incorporate fleet replacement schedules and capital investment plans that are calibrated to the term of the agreement and the useful life of specialized collection vehicles;
- Allocate risk, regulatory compliance responsibilities, and cost exposure between the contracting parties based on the regulatory landscape at the time of contract execution.

The 15-day modifications introduce new compliance conditions that were not contemplated during the formation of these agreements and cannot be readily incorporated into existing contractual frameworks. The resulting misalignment creates immediate and serious risks, including:

- **Contractual Misalignment:** Existing agreements allocate regulatory compliance responsibilities based on the regulatory framework in effect at the time of execution. The proposed modifications create regulatory obligations that fall outside the scope of current contractual provisions, generating disputes over which party—the local jurisdiction or the contracted hauler—bears responsibility for compliance.
- **Unfunded Cost Exposure:** If ACF compliance is effectively shifted onto private haulers, the associated costs—including zero-emission vehicle acquisition, charging infrastructure deployment, facility upgrades, and workforce training—are not reflected in current rate structures or franchise fee calculations. CWHC estimates that the incremental capital cost of transitioning a single

heavy-duty refuse collection truck to a zero-emission platform ranges from \$250,000 to \$450,000 per unit above the cost of a conventional diesel or compressed natural gas (CNG) vehicle, exclusive of infrastructure costs.

- **Unproven Equipment:** OEM's have not been able to produce a proven, road-tested truck that the industry can safely rely on to complete a daily route. Existing trucks have proven to be unreliable and unpredictable; thus causing a number of operational and customer service concerns,
- **Rate Instability:** Municipal solid waste rates are established through public processes and are subject to Proposition 218 requirements and local rate-setting ordinances. Imposing new ZEV procurement mandates, as well as the required infrastructure, on contracted haulers without corresponding rate adjustments will either strand costs with haulers—threatening financial viability—or trigger rate increases that have not been publicly vetted or approved.
- **Disruption to Essential Services:** Solid waste collection is a critical public health service that depends on operational continuity and fleet reliability. Introducing compliance uncertainty into the contractual framework that governs these services risks service disruptions, procurement delays, and a deterioration of service quality in communities that depend on uninterrupted waste collection and recycling operations.

The Proposed Framework Raises Unresolved and Significant Implementation Challenges

Beyond the legal and contractual concerns identified above, the proposed framework raises several significant and unresolved practical implementation challenges that CARB has not adequately addressed in the rulemaking record:

Contractual Ambiguity and Allocation of Compliance Responsibility

The vast majority of existing municipal waste hauling contracts do not contain provisions that clearly allocate responsibility for compliance with evolving state zero-emission vehicle mandates. These agreements were negotiated and executed under a regulatory framework in which ACF applied to government-owned fleets, not to private contractors. The proposed modifications create a compliance obligation that falls into a contractual gap, with neither the jurisdiction nor the hauler clearly responsible for meeting the new requirements. This ambiguity will generate contract disputes, necessitate costly renegotiations, and may require formal amendments that are subject to their own public approval processes under local ordinances and Proposition 218.

Data and Reporting Burden

The expanded exemption and compliance pathways in the 15-day modifications rely heavily on detailed operational data, including vehicle usage metrics, daily mileage logs, duty cycle analyses, fuel consumption records, and infrastructure availability assessments. Many existing franchise agreements do not contemplate this level of data sharing between haulers and local jurisdictions. Creating the data collection, verification, and reporting systems necessary to demonstrate compliance or qualify for exemptions will impose substantial new administrative and operational burdens on both haulers and the local agencies responsible for contract oversight. CARB has not provided any estimate of the cost or administrative burden associated with these new data requirements.

Procurement Distortion and Competitive Effects

By embedding ACF compliance obligations into the contracting relationship, the proposed framework will significantly alter the competitive dynamics of municipal waste hauling procurement. Local governments may begin restructuring contracts, shortening terms, or imposing pass-through compliance requirements that shift all ZEV transition costs and risks onto haulers without corresponding adjustments in compensation. This will disadvantage smaller and mid-sized haulers that lack the capital reserves to absorb ZEV transition costs, concentrate market share among the largest national waste companies, and ultimately reduce competition and choice for local jurisdictions—outcomes that are contrary to the public interest and inconsistent with CARB's stated

commitment to equitable regulatory implementation.

Zero-Emission Vehicle Availability and Operational Constraints

Waste collection fleets have unique and demanding operational requirements, including specialized body configurations (front-loaders, automated side-loaders, rear-loaders, and roll-off trucks), high payload capacity requirements, rural working environments, continuous duty cycles with frequent stops and compaction operations, and daily route reliability in all weather and terrain conditions. While the zero-emission vehicle market for medium- and heavy-duty applications continues to develop, the availability of ZEVs that meet the specific operational needs of waste collection remains limited. Range limitations for both rural and suburban routes, charging time requirements, payload reductions associated with battery weight, and the lack of charging infrastructure at transfer stations and fleet yards present ongoing barriers. CARB's own ACF workgroup on waste fleet provisions, convened in 2023, recognized these challenges and acknowledged the need for additional flexibility—yet the 15-day modifications expand obligations to contracted waste fleets without addressing these same feasibility constraints.

Interaction with SB 1383 Organic Waste Diversion Mandates

Many CWHC members have made significant investments in compressed natural gas (CNG) vehicles fueled by renewable natural gas (RNG) derived from organic waste, in direct support of California's SB 1383 organic waste diversion mandates. These investments were made in reliance on the existing ACF framework, which provides a biomethane deferral for qualifying waste fleet CNG vehicles through 2030. The 15-day modifications create uncertainty about whether contracted waste fleets will continue to have access to this deferral pathway, potentially stranding billions of dollars in fleet investments and SB 1383 infrastructure projects that were made in good-faith reliance on the regulatory framework as adopted. Financing requirements rely on a stable, long term, and predictable operational environment.

Using Contracting as a Regulatory Enforcement Mechanism Raises Fundamental Policy and Legal Concerns

The 15-day modifications rely on public contracting and procurement relationships as the primary mechanism for extending CARB's regulatory reach to private waste haulers. This approach raises fundamental concerns about the appropriate scope of state regulatory authority and the role of local governments in the enforcement of state environmental regulations.

Embedding ACF compliance obligations within public contracts effectively transforms local governments into intermediaries responsible for enforcing state emissions regulations on private entities. This raises several significant policy and legal concerns:

- **Departure from Fleet-Based Regulatory Structures:** ACF was designed and adopted as a fleet-based regulation that imposes obligations on fleet owners based on fleet size, ownership, and operational characteristics. Extending compliance through contracting relationships departs from this fleet-based framework and introduces a novel regulatory mechanism that has not been subject to the analytical rigor required for a new regulatory approach under the APA.
- **Unfunded Mandate Concerns:** To the extent the proposed modifications impose new obligations on local governments to enforce ACF compliance through their contracting processes, these requirements may constitute unfunded state mandates under Article XIII B, section 6 of the California Constitution, requiring either a subvention of funds or a determination by the Commission on State Mandates.
- **Inconsistent Implementation Across Jurisdictions:** Municipal franchise and service agreements vary dramatically in structure, scope, term, and allocation of responsibilities across California's 482 cities and 58 counties. A contracting-based compliance framework will inevitably produce inconsistent implementation and enforcement, creating a patchwork of obligations that varies by jurisdiction and undermines the statewide uniformity that fleet-based regulations are designed to

achieve.

- Systemic Uncertainty in the Franchise Model: The franchise-based service delivery model is the foundation of solid waste management in California. Introducing regulatory compliance obligations into the contracting relationship injects systemic uncertainty into this model, potentially discouraging long-term investment in fleet modernization, infrastructure, and service quality at a time when the state's waste diversion and climate goals demand increased investment, not less.

Conclusion and Request

For the reasons set forth above, CWHC respectfully requests that CARB remove the provisions expanding ACF applicability to contracted waste and recycling fleets from the current 15-day change package. These provisions exceed the permissible scope of a 15-day modification under Government Code section 11346.8(c) and have not been subject to the notice, comment, and economic analysis requirements of the APA.

These 15-day modifications represent a fundamental restructuring of the ACF regulatory framework with direct and far-reaching consequences for essential public services across California. The scope of these changes demands the full procedural protections of the APA, including adequate public notice, a meaningful opportunity for stakeholder input, and rigorous economic and feasibility analysis.

CWHC remains committed to working constructively with CARB to ensure that the transition to zero-emission waste collection fleets is legally sound, operationally feasible, financially sustainable, and aligned with the real-world demands of essential public service delivery. We welcome the opportunity to engage in a dedicated stakeholder process on these issues and stand ready to provide the technical, operational, and economic data necessary to inform a workable regulatory approach.

Respectfully submitted,

Luis Sanchez

Legislative Advocate

California Waste Haulers Council



April 16, 2026

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